

**KOMA/KORA COMPLAINTS RECEIVED BY THE
ATTORNEY GENERAL'S OFFICE
REPORT PURSUANT TO K.S.A. 2009 SUPP. 75-753**

July 2009 through June 2010

KORA COMPLAINTS

STATE AGENCIES

Kansas Department of Commerce/Local Area V Workforce Board

Contact: A former employee of the Area V Workforce requested documents. A complaint was made to this office.

Allegation: The complaint alleged that a specific form was required in order to make a KORA request and documents were not provided within the statutory period.

Action Taken: This office contacted the Department of Commerce and Local Area V staff. The Department of Commerce had no role regarding the complaint. After reviewing the submitted materials, the request form clearly stated its use is optional. It was also determined that no KORA request had been made, the document in question was always available for review.

Kansas Department of Corrections

Contact: An inmate requested copies of an email and report regarding an incident in the "pill line."

Allegation: The Department of Corrections denied the request because the documents discussed security systems and arrangements.

Action Taken: This office contacted the Department of Corrections and confirmed their assertion that the documents reviewing the incident discussed security arrangements for the distribution of medications. The documents are permitted to be discretionarily closed. No further action was taken.

Kansas Department of Corrections

Contact: An inmate requested copies of a disciplinary report and did not receive any response.

Allegation: The requested records were never produced.

Action Taken: The Department of Corrections asserted no record request was received. The requested records were supplied and the matter was closed.

University of Kansas

Contact: ESPN requested an electronic of a report KU provides to the NCAA.

Allegation: KU would not provide the requested report in an electronic format.

Action Taken: This office contacted KU. A copy of the report was provided in PDF and sent electronically. KU did not wish to send the report in a format that was subject to manipulation or alteration. Because the records were provided, no further action was taken.

Department of Social and Rehabilitation Services/Kansas Bureau of Investigation

Contact: A citizen contacted this office concerning a record request he made of all state agencies for records about him.

Allegation: SRS and KBI responded to the request according to KORA and determined they did not have any responsive records. The citizen believed they had not done a thorough search.

Action Taken: This office contacted both agencies and requested they initiate a new search. Both agencies agreed, but the result was still negative. No further action was taken.

Counties

Ellsworth County

Contact: The *Ellsworth Independent-Reporter* newspaper contacted this office because the county appraiser refused to provide assessment information.

Allegation: The *Ellsworth Independent-Reporter* requested property appraisal data from the county appraiser in electronic format for the purpose of selling copies after some reformatting to property owners. The request was denied.

Action Taken: This office contacted the county attorney and explained that, based upon the facts as presented; this office had stated in Attorney General Opinion 94-104 that the sale of public records by a requestor is not prohibited by KORA. Therefore, the records should be provided, unless the county is unable to provide them in the format requested. The records were provided.

Jewell County

Contact: A citizen contacted this office about records he had requested from the county sheriff.

Allegation: The records requested, information about individuals in the county jail, were alleged to be incomplete.

Action Taken: This office contacted the county attorney and reviewed the allegation. The records provided were all that were available. KORA does not address the question of the adequacy of the content. The process was followed and documents were provided. No further action was taken.

Contact: The same citizen contacted this office again with a similar complaint approximately three months later.

Allegation: The county sheriff failed to follow the statutory procedures required by KORA.

Action Taken: After reviewing the submitted information and responses by the sheriff's department, it was determined no violation had occurred. The complainant was notified and the file closed.

Cities

City of Liberal

Contact: The *Southwest Times* contacted this office regarding a determination by the Seward County Attorney.

Allegation: The *Southwest Times* had made a KORA complaint to the Seward County Attorney's office because the City of Liberal would only provide a paper copy of the proposed budget instead of an electronic one as requested.

Action Taken: This office does not review or comment upon the determination of a county or district attorney.

City of Jetmore

Contact: A citizen contacted this office concerning the accuracy and timeliness of documents requested from the city.

Allegation: Draft copies of minutes had been requested of the city and not provided until after approval. Other documents were provided but did not match another source.

Action Taken: The County Attorney also serves as City Attorney and asked that this office review the complaints. Upon review, copies of drafts may be withheld until finalized; therefore there was no KORA violation. KORA does not address the accuracy or content of documents. The question of document content is best resolved by other means.

City of Haven

Contact: A citizen contacted this office regarding a KORA request that had been denied.

Allegation: The citizen had requested copies of emails from the city administrator to the city council for a period of time. Some emails were discretionarily closed by the staff. The citizen requested copies of minutes as they became available.

Action Taken: The County Attorney was conflicted out and asked that this office review the complaint. KORA does permit discretionary closure of documents when the content is considered in the preliminary or draft form. Also, there is no prohibition for a staff member to communicate with the city council, unless the council is engaged in decision making outside of a noticed meeting. KORA does not require the production of documents that are not in existence at the time of the request. Therefore, no KORA violation was found.

Referrals to County or District Attorney Offices
Please See the County Report for Details

Saline County Sheriff's Office (Saline County) – failure to provide requested records.

Sedgwick County (Sedgwick County) – failure to provide requested records.

Merriam Drainage District (Johnson County) – failure to provide requested records.

KOMA COMPLAINTS

STATE AGENCIES

Kansas Department of Commerce/Local Area V Workforce Board

Contact: A former employee contacted this office concerning the Area V Workforce Board.

Allegation: The Area V Workforce Board failed to provide adequate notice for meetings, failed to follow the statutory procedures for entering into executive sessions, included non-board members in executive sessions, failed to keep minutes, inappropriate subject matter was discussed in executive sessions and a citizen was denied access to a meeting.

Action Taken: The Department of Commerce did not have any role any in of the allegations. After reviewing each of the allegations, it was determined that no violations had occurred.

Kansas State Historical Society/Shawnee Indian Mission Foundation

Contact: A citizen contacted this office concerning the activities of the Shawnee Indian Mission Foundation.

Allegation: The Shawnee Indian Mission Foundation failed to provide requested documents and notice for meetings.

Action Taken: The Shawnee Indian Mission Foundation is an independent agency, even though it has an agreement with the Kansas State Historical Society. Therefore, the Shawnee Indian Mission Foundation is not subject to KOMA or KORA.

COUNTIES

Marion County Jail Committee

Contact: A citizen, a former member of the Committee, contacted this office inquiring if the Committee is subject to KOMA.

Allegation: The Committee was not following the requirements of KOMA concerning notice and public accessibility.

Action Taken: The County Attorney requested this office review the matter and make a determination of whether the Committee was subject to KOMA. After reviewing all of the relevant information, we believe the Committee is subject to KOMA. The County Commissioners and other members of the Committee forwarded a signed agreement stating they were aware of the KOMA requirements and would observe them.

CITIES

City of Jetmore

Contact: A citizen contacted this office concerning the actions of the Jetmore city council.

Allegation: A majority of the city council were in attendance at another meeting, staff members were included in an executive session, an executive session was inappropriately called without the necessary formalities and a majority of the city council lingered after a public meeting was adjourned and discussed city business.

Action Taken: The County Attorney is also the City Attorney and conflicted from conducting an investigation. An analysis was prepared concerning the allegations, but further action was delayed pending the outcome of a recall election.

City of Haven

Contact: A citizen contacted this office concerning the City of Haven and an executive session.

Allegation: The Mayor engaged in serial communication in order to communicate a proposed personnel action and further discussed it during an executive session in which the statutory formalities were not followed.

Action Taken: This office conducted the investigation and determined that the Mayor had the statutory authority to take the personnel

action and only informed the city council during the executive session. No violations were noted.

OTHER AGENCIES

Ashland Community Hospital District #3 (Clark County)

Contact: Several citizens contacted this office concerning the actions of the hospital board.

Allegation: The board discussed hospital business and made decisions outside of a noticed meeting.

Action Taken: At the request of the Clark County Attorney, this office conducted an investigation into the specific allegations. After reviewing all of the relevant documents, requesting individually prepared and sworn statements, it was determined that at the time of the alleged incidents, no member of the community had requested notice of meetings. Therefore, the board did not have a duty to provide notice. Since that time, the board has been made aware of the KOMA requirements and several citizens have requested notice.

Referrals to County or District Attorney Offices **Please See the County Report for Details**

The Unified Government of Wyandotte County/Kansas City Kansas (Wyandotte County) – failure to provide notice and public attendance at a meeting.

City of Burlingame (Osage County) – inappropriate participants at an executive session conducted for the purpose of attorney-client consultation.

City of Erie – (Neosho County) – inappropriate subject matter discussed during an executive session.

Ellis County Wellhead Protection Committee (Ellis County) – serial communications conducted by the Committee regarding a written recommendation.